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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT PETITION NO. 23771 OF 2005

DATED: 08-11-2005

Between

Sri Kamlesh Parsram Rupani.

..... PETITIONER

And

The Commissioner of Income Tax, AP – IV Circle,

Hyderabad and another.

..... RESPONDENTS

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THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

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WRIT PETITION NO. 23771 OF 2005

ORDER: (per Sri B. Sudershan Reddy, J)

The writ petition, in our considered opinion, is absolutely frivolous and misconceived. As is evident from the proceedings dated 22-04-1996, the Assistant Commissioner of Income Tax, Circle – 2(1), Hyderabad, the 2nd respondent herein duly informed the petitioner that the return of income filed for the assessment year 1993-94 on 20-02-1996 is beyond the time allowed under Section 139(1) of the Income Tax Act, 1961 and therefore, the same is liable to the lodged. The return submitted by the petitioner was accordingly lodged. The proceeding attained finality since it remained unimpeached.

The petitioner's representation dated 16-02-2005 made after a period of nine years and even the earlier representation requiring the Department to consider his case for refund of the amount is of no consequence since there is no provision under which such an application could have been filed in respect of an assessment which has not been completed and which was lodged. The petitioner, if at all, could have

questioned the proceedings dated 22-04-1996 whereunder the return of income for the assessment year 1993-94 has been lodged by the Department since it was beyond the period prescribed under Section 139(1) of the said Act. The petitioner did not challenge the same and cannot be permitted to challenge the same in an indirect manner after a period of more than nine years.

The Writ Petition shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

08..11..2005

(S. Ananda Reddy, J)

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